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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,823	12/21/2000	Philippe Lachaud	Q62379	6580

7590 11/05/2004  
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EXAMINER

PATEL, NIKETA I

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/740,823

Applicant(s)

LACHAUD ET AL.

Examiner

Niketa I. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) *           | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6 and 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Kitai et al. U.S. Patent Number: 5,948,069 (hereinafter referred to as "*Kitai*".)

3. **Referring to claim 1**, *Kitai* teaches a system for changing a communication means [see column 2, lines 55-61, 'ATM network'] used for communication between two software agents [see column 2, lines 24-38], the system comprising: a communication server [see figure 3, element 3000], and each of said software agents comprises [see column 6, lines 37-47, 'client and the program running on the client']: a communication module [see column 2, lines 55-61 'network interface']; giving access to said communication means [see column 2, lines 55-61]; and means for receiving a new communication module from said communication

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server [see column 3, lines 6-32, 'the second computer is provided with a network interface having a larger bandwidth'.]

4. **Referring to claim 2, Kitai** teaches a system in which said software agents further comprise means for sending a request to said communication server to cause said new communication module to be transmitted [see column 6, lines 64-67 and column 7, lines 1-9, 23-67.]

5. **Referring to claim 3, Kitai** teaches a system in which said communication server comprises means for receiving requests for loading communication means from a man-machine interface, causing said new communication module to be transmitted [see column 7, lines 23-43.]

6. **Referring to claim 4, Kitai** teaches a system in which said communication server further comprises means for responding to internal rules to decide that said new communication module should be transmitted [see column 7, lines 44-48.]

7. **Referring to claim 5, Kitai** teaches a system in which said communication module is loaded dynamically by said software agents [see column 2, lines 25-38 and column 11, lines 51-53.]

8. **Referring to claim 6, Kitai** teaches a system in which said software agents and said communication modules communicate via a common programming interface [see column 5, lines 58-61.]

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9. **Referring to claim 12**, *Kitai* teaches wherein each of said software agents use said new communication module to access new communication means to communicate with each other [see column 7, lines 23-55.]

10. **Referring to claim 13**, *Kitai* teaches wherein each of said software agents further comprises means for switching [see figure 22, element 5010a 'Address Switching Table'] from the communication module to the new communication module, and wherein the new communication module provides access to a different communication means, and wherein each of said software agents communicate with each other via the different communication means [see column 7, lines 23-55 and column 2, lines 23-37.]

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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12. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. U.S. Patent Number: 6,069,947 (hereinafter referred to as "*Evans*") and further in view of Kitai et al. U.S. Patent Number: 5,948,069 (hereinafter referred to as "*Kitai*".)

13. **Referring to claim 7**, *Evans* teaches a method of correcting a breakdown in a communication means used between two software agents, the method comprising: said software agents sending messages to a communication server informing it of said breakdown [see column 20, lines 3-8.] *Evans* does not set forth the limitations listed below however *Kitai* teaches the limitations of said server sending communication modules to said software agents, said communication modules being designed to give access to a different communication means [see column 3, lines 6-32, 'the second computer is provided with a network interface having a larger bandwidth']; and said software agents using said communication modules to continue communicating [see column 2, lines 55-61] resulting in a system which provides a load balancing network.

One of ordinary skill in the art at the time of applicant's invention would have clearly recognized that it is quite advantageous for the network of *Evans* to provide new

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communication module in order to maintain the balance of the network load in an event of a failure. It is for this reason that one of ordinary skill in the art would have been motivated to implement *Evans's* network with means to provide new communication module to balance the network load.

14. **Referring to claim 8**, teachings of *Evans* as modified by the teachings of *Kitai* teaches wherein said different communication means is a different type of communication means [see column 3, lines 6-32, 'the second computer is provided with a network interface having a larger bandwidth'.]

15. **Referring to claim 9**, teachings of *Evans* as modified by the teachings of *Kitai* does not teach wherein said different type of communication means is a broadcast type of communication means.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention that it was old and well known in the computer art to get the advantage of being able to set data to all the nodes on the network at a give time by using broadcast type of communication. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include broadcast type of communication to get this advantage.

16. **Referring to claim 10**, teachings of *Evans* as modified by the teachings of *Kitai* teaches wherein said different type of

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communication means is a point to point type of communication means [see column 10, lines 55-57.]

17. **Referring to claim 11**, teachings of *Evans* as modified by the teachings of *Kitai* teaches wherein said software agents are software program objects in a distributed computing [see column 6, lines 37-47, 'client and the program running on the client'], each of said agents further comprises a common programming interface, and wherein said communication module translates between the common interface and another programming interface specific to said different communication means [see column 2, lines 55-61 'network interface'.]

#### ***Response to Arguments***

18. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following documents have been made record of to further show the state of the art as it pertains to changing a communication means: U.S.



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Patent Numbers: (6,292,657), (6,560,235), and U.S. Publication Numbers: (2003/0105802 A1), (2001/0041556 A1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niketa I. Patel whose telephone number is (571) 272 4156. The examiner can normally be reached on M-F 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571) 272 4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP  
10/21/2004

  
KIM HUYNH  
PRIMARY EXAMINER

10/21/04